

FDA Authorizes Sale of Menthol E-cigarettes

“Authorizing the sale of any flavored e-cigarette...fails to protect young people from a lifetime of addiction,” says ACS CAN president.

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On Friday, June 21, the Food and Drug Administration (FDA) dealt a blow to public health by authorizing the sale of four menthol e-cigarettes manufactured by NJOY LLC. Previously, the FDA had issued marketing denial orders for every flavored e-cigarette product it has reviewed, previously finding the applicants failed to produce reliable evidence their product benefits public health and had not yet authorized any menthol flavored e-cigarettes.

It’s noteworthy that the FDA’s technical project lead review of NJOY’s premarket tobacco product application (PMTA) acknowledges how one of NJOY’s own studies demonstrating the products’ risk to youth cited that “more youth reported starting with menthol-flavored NJOY DAILY products than tobacco-flavored NJOY DAILY products.”

The following is a statement from Lisa Lacasse, president of the American Cancer Society Cancer Action Network (ACS CAN):

“On the heels of the administration refusing to finalize rules to prohibit menthol in cigarettes and all flavors in cigars, this decision is a missed opportunity for the FDA to do the right thing. By authorizing the sale of menthol flavored e-cigarettes, including two disposable menthol e-cigarettes, the agency is continuing to allow Big Tobacco to addict yet another generation of youth to their products. Authorizing the sale of any flavored e-cigarette flies in the face of public health and fails to protect young people from a lifetime of addiction.

“The evidence is abundantly clear that flavored e-cigarettes attract youth and we’re seeing this play out in real time. In 2023, more than 2.1 million high school and middle school youth used e-cigarettes and according to the 2023 National Youth Tobacco Survey (NYTS), of all students who used e-cigarettes, disposable e-cigarettes were the most common (60.7%). That survey didn’t identify which flavored e-cigarettes youth used, but 2022 NYTS data found among all students who used e-cigarettes, 84.9% used flavored e-cigarettes, and the most used flavors of e-cigarettes among middle and high school students were fruit (69.1%), candy, desserts, or other sweets (38.3%), mint (29.4%), and menthol (26.6%).

“This is no accident. The tobacco industry’s own internal documents show that the appeal of menthol to youth and other non-tobacco users has been known by the industry for decades. The role that menthol plays in youth initiation of tobacco products is one of the core reasons for FDA’s proposed rules to prohibit menthol in cigarettes and all flavors in cigars. While the White House continues to delay implementing these rules, authorizing new tobacco products for sale will only result in more kids becoming lifetime customers of an industry that profits from products that result in death.

“ACS CAN urges FDA to reverse this decision and deny marketing orders to any flavored e-cigarette product. Additionally, in light of the administration failing to act, ACS CAN will continue to urge cities and states to end the sale of all flavored tobacco products including menthol.”

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